

E-filing

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 8 Wells Fargo Bank, N.A.

9
 10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

12 IRASEMA E. GREENE, KARYN RAE WINN,
 JARROD D. OSBORNE, BRANDON LEE
 13 DODD, NICOLE M. WIGGIN, BENJAMIN A.
 MANGABAT, LAURA J. BICHE, EUNICE Y.
 14 HONG MCLAUGHLIN, KIMBERLY
 PLOWMAN, SEAN MENDEZ, MARIO A.
 15 MENDOZA, GRACIELA SANCHEZ,
 MANUEL ZARAGOZA, ROGER D.
 16 VALLADARES, SAMIRA S. BADAWIYA,
 MARISA FRANCES TIJERINA, CRISTINA A.
 17 FADGEN, DANNY MICHAEL KREUZ,
 ANDRE LANDZAAT, ROSE BATAKAN,
 18 CHRISTINE MENDEZ GEROCHI, LAURI
 LYNN CASAZZA, STANLEY WATKINS,
 19 JARROD M. FASSIO, CHRISTINE
 SANCHEZ, KAREN L. FREITAS, JOSHUA
 20 LOPEZ JR., FABIOLA AVILA, JESSICA
 FAIRBANKS, LISA DELONG, GERALD
 21 WAYNE ALTIERI II, LESLIE VARGAS
 ROBERTS, NATHAN E. BROWNE, DARYL
 22 WENRICH, MARIO GILBERT HERNANDEZ,
 ERIN A. KERR, ANGEL SANTIAGO, SOPHIE
 23 FAITH EDDY, CHARLES J. RINALDI,
 KENNETH BRIAN BLASIC, ROSITA R.
 24 LACANGLACANG, HEATHER A.
 HANNEMAN, MICHAEL R. SMITH, HENRY
 25 CALERO, DAVID RIENTORD, KAREEN N.
 BERNARD, MARYAM M. GILLANY,
 26 KRISTIE KATHLEEN CLARK, DONALD
 DUSATKO, TAWNY SUFFECOOL, KELLY
 27 K. SHEETS, FAITH I. HUNTER, DANIELLE
 R. SMITH, GABRIEL A. SORENSON,
 28 KATHERINE D. BANTIQUE, PAT

Case No.

**NOTICE OF REMOVAL OF CIVIL
 ACTION TO FEDERAL COURT**

ORIGINAL
 FILED
 AUG - 9 2010
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND

AL

S/

1 ALTHIZER, BANIPAL BETPAROO, JED L.
2 LEAKE, GERALD D. PARKS, JOSE
3 PANIGBATAN, ROBERT A. YOUNG,
4 PATRICK T. LARKIN, SHIRLEY L.
5 NICHOLS, HAROLD A BEHNKE, SAHAR
6 MASARATI, WILLIAM J. MARCIANO JR.,
7 and ASHLEY COTTA, all individuals,

8 Plaintiffs,

9 v.

10 WELLS FARGO BANK, N.A., a Delaware
11 corporation; and DOES 1 through 10, inclusive,

12 Defendants.
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1 TO THE CLERK OF THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF
2 CALIFORNIA:

3 PLEASE TAKE NOTICE that Defendant WELLS FARGO BANK, NATIONAL
4 ASSOCIATION ("Defendant"), hereby removes this action from the Superior Court of California
5 for the County of Alameda to the United States District Court for the Northern District of California.
6 This removal is based on federal question jurisdiction, 28 U.S.C. §§ 1331, 1337(a), 1367 and 1441.

7 **I. TIMELINESS OF REMOVAL**

8 1. Following decertification of their overtime class action by the United States
9 District Court in *In re Wells Fargo Home Mortgage Overtime Pay Litigation*, 2010 U.S. Dist. Lexis
10 3132 (N.D. Cal. Jan. 13, 2010), certain Plaintiffs on June 25, 2010 and July 6, 2010, respectively,
11 filed in Alameda County Superior Court their Complaint and Amended Complaint, and on July 8,
12 2010, served on Wells Fargo, the instant Summons and Complaint entitled *Irasema E. Greene, et al*,
13 all individuals vs. Wells Fargo Bank, National Association, and Does 1 through 10, inclusive, case
14 number RC-10-522400 ("Complaint"). The Complaint alleges the following six purported causes of
15 action against Defendant: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid
16 Overtime); (2) Violation of California Labor Code §§ 2800 and 2802 (Unpaid Business Expenses);
17 (3) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon
18 Termination); (4) Violation of California Labor Code § 204 (Wages Not Timely Paid During
19 Employment); (5) Violation of California Labor Code § 226(a) (Non-compliant Wage Statements);
20 and (6) Violation of California Business & Professions Code §§ 17200, *et seq.*, alleged violation of
21 the Federal Fair Labor Standards Act, 29 U.S.C. §§ 206 and 207 ("FLSA"). The Complaint is the
22 initial pleading setting forth the claim for relief upon which this action is based and may be removed.
23 This Notice of Removal is being filed within thirty (30) days of defendant's notice of the complaint
24 being filed, as plaintiffs have not yet served the summons and complaint, and is timely filed pursuant
25 to 28 U.S.C. § 1446(b) and Federal Rules of Civil Procedure, Rule 6(a).

26 2. Every process, pleading, and order served in this case is attached as Exhibit
27 "1" hereto, as required by 28 U.S.C. § 1446(a).

28 NOTICE OF REMOVAL

II. ORIGINAL JURISDICTION

A. This Court Has Jurisdiction.

3. This Court has original jurisdiction under 28 U.S.C. §§ 1331, 1337(a), 1367 and 1441(a) or (b) over Plaintiffs' Sixth Cause of Action because it arises "under the Constitution, laws or treaties of the United States" (28 U.S.C. § 1331); and/or it arises under "any Act of Congress regulating commerce or protecting trade and commerce ..." (28 U.S.C. § 1337(a)); and it is a "civil action brought in a State Court of which the district courts of the United States have original jurisdiction ..." (28 U.S.C. § 1441 (a)); and/or it is a "civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, laws or treaties of the United States ..." 28 U.S.C. § 1441(b).

4. Plaintiff's Sixth Cause of Action alleges that "Defendants' policies and practices of failing to pay overtime and minimum wages violate Fair Labor Standards Act, 29 U.S.C. sections 206, 207." *Id.*, ¶ 61. Those sections of the FLSA are the basic requirements for payment of minimum wage and overtime unless certain exemptions apply, e.g., 29 U.S.C. § 219(a); 29 C.F.R. § 541.2 (outside sales persons). Plaintiffs also specifically allege that Defendant improperly classified persons employed as home mortgage consultants, loan originators, loan officers, mortgage specialists, reverse mortgage specialists and loan consultants as exempt from overtime pay. *Complaint* §§ 15, 17. Plaintiffs "incorporate by reference and reallege" such claims in their Sixth Cause of Action. *Id.* § 58.

5. Plaintiffs' procedural use of California Unfair Competition Law (Business and Professions Code Section 17200) does not convert their federal claim to a state claim.¹ The Ninth Circuit and several district courts have recognized that a federal court should exercise federal question jurisdiction over a section 17200 claim that is based upon an alleged violation of federal law that requires interpretation of that federal law. *Brennan v. Southwest Airlines*, 134 F.3d 1405, 1409 (9th Cir. 2004) (federal jurisdiction upheld when Section 17200 claim in its essence required interpretation of federal tax codes) and *People ex rel. Lockyer v. Dynegy Power Marketing*, 375 F.3d

¹ Further, the "Artful Pleading Doctrine" bears Plaintiffs' claim to reveal its true substance as a federal claim. See ¶¶ 10-13, *infra*.

831, 841 n.6 (9th Cir. 2004) (since “the reference to and necessity of relying upon federal law is unavoidable” to determine whether the plaintiffs acted “unlawfully” or “unfairly” under section 17200, federal jurisdiction upheld).

6. In *National Credit Reporting Association, Inc. v. Experian Information Solutions, Inc.*, 2004 U.S. Dist. Lexis 17303 (N.D. Cal. 2004), the plaintiff included no cause of action labeled violation of the Sherman Act. But Plaintiff did allege a UCL claim, based upon “unlawful” conduct that “violates state and federal antitrust laws” *Id.* at *3. Noting that ““Section 17200 borrows violations of other laws and treats them as unlawful practices that the unfair competition law makes independently actionable”, the court found that Plaintiff squarely alleged a violation of federal antitrust laws by its reliance on those federal laws as the “unfair, unlawful and deceptive” acts to state its UCL claim. *Id.* at *8, quoting *Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co.*, 20 Cal.4th 163, 180 (1999). As the district court explained:

As the master of its complaint, plaintiff could have avoided any issue of federal question and, instead, could have simply borrowed state antitrust laws. But it did not. **Rather, plaintiff’s claim for unlawful business practices necessarily rests on questions of federal antitrust law.**

Id. at *8-9 (emphasis supplied).

7. Relying on *National Credit Reporting Ass’n*, another California district court also denied a motion to remand an action seeking restitution of overtime under section 17200 where a violation of the FLSA was the “unlawful act” borrowed for purposes of the UCL. *Wiley v. Trendwest Resorts, Inc.*, 2005 U.S. Dist. Lexis 35568 (N.D. Cal. May 3, 2005). The court noted that plaintiffs did not refute that he was pursuing his federal claim for overtime under the FLSA and the analysis of whether defendant’s sales personnel fall within the FLSA’s “inside salesperson” exemption. “It is precisely this analysis that establishes federal question jurisdiction.” *Id.* at *7-8 (emphasis supplied).

8. Plaintiffs here—like the Plaintiffs in *Wiley*—allege a Section 17200 claim that borrows purported violations of the FLSA as the asserted “unfair, unlawful and deceptive” acts. Plaintiffs allege that “Defendants’ policies and practices of failing to pay overtime and minimum

NOTICE OF REMOVAL

1 wages violate Fair Labor Standards Act, 29 U.S.C. sections 206, 207.” Complaint, ¶ 61. Plaintiffs
 2 also specifically allege that Defendant improperly classified persons employed as home mortgage
 3 consultants, loan originators, loan officers, mortgage specialists, reverse mortgage specialists and
 4 loan consultants as exempt from overtime pay: *Id.* ¶¶ 15, 17. Plaintiffs “incorporate by reference
 5 and reallege” such claims in their Sixth Cause of Action. *Id.* ¶ 58.

6 9. Since Plaintiffs’ UCL claim necessarily rests on questions of federal wage and
 7 hour law that must be resolved to determine whether they are entitled to restitution of overtime to
 8 prevail in their Section 17200 claim, Plaintiffs have raised a substantial federal question and by so
 9 doing, have granted this federal court jurisdiction to resolve these federal questions.

10 **B. The “Artful Pleading” Doctrine Would Apply.**

11 10. When a plaintiff does not plead a claim on its face based on federal law, a
 12 federal court may nevertheless exercise removal under the “artful pleading” doctrine. *Arco*
 13 *Environmental Remediation, LLC v. Dep’t of Health & Environ. Qual. Of the State of Montana*, 213
 14 F.3d 1108, 1114 (9th Cir. 2000). As the Ninth Circuit explained, “[a] plaintiff may not avoid federal
 15 jurisdiction by omitting from the complaint federal law essential to his or her claim or by casting in
 16 state terms a claim that can be made only under federal law.” *Sparta Surgical Corp. v. National*
 17 *Assoc. of Sec. Dealers*, 159 F.3d 1209, 1212 (9th Cir. 1998); accord, *Franchise Tax Bd. Of Calif. v.*
 18 *Constr. Laborers Vacation Trust*, 463 U.S. 1, 22, 103 S. Ct. 2841 (1983). The artful pleading
 19 doctrine requires courts to “delve beyond the face of the state court complaint and find federal
 20 question jurisdiction” by “recharacterizing a plaintiff’s state-law claim as a federal claim.” *Lippitt v.*
 21 *Raymond James Fin. Serv., Inc.*, 350 F.3d 1033, 1040 (9th Cir. 2003).

22 11. The artful pleading doctrine applies when “some substantial, disputed
 23 question of federal law is a necessary element of one of the well –pleaded state claims. *Franchise*
 24 *Tax Bd of California*, 463 U.S. at 13; *Skelly Oil Co. v. Phillips Petroleum Co.*, 339 U.S. 667, 673, 70
 25 S. Ct. 876 (1950); *Brennan v. Southwest Airlines Co.*, 134 F.3d 1405, 1409 (9th Cir. 1998). As a
 26 corollary, the artful pleading doctrine also requires removal when the right to relief depends on the
 27 resolution of a substantial, disputed federal question. *ARCO Environmental Remediation, LLC. v.*
 28 *Dept of Health & Environmental Quality of State of Montana*, 213 F.3d 1108, 1114 (9th Cir. 2000).
 NOTICE OF REMOVAL

12. Pursuant to 28 U.S.C. § 1367(a), the Court has supplemental jurisdiction over Plaintiffs' remaining causes of action because they are substantially related to their sixth cause of action. Because these causes of action arise from the same nucleus of operative facts as do the sixth cause of action, all should be tried in one action. *Nishimoto v. Federman-Bachrach & Assoc.*, 903 F.2d 709, 714 (9th Cir. 1990). Considerations of convenience, judicial economy and fairness to the litigants strongly favor this Court exercising jurisdiction over Plaintiffs' entire Complaint. *United Mine Workers v. Gibbs*, 383 U.S. 715, 725-26 (1966).

III. VENUE


13. Venue lies in the Northern District of California pursuant to 28 U.S.C. §§ 1441 and 1446(a). This action originally was brought in the Superior Court of California, County of Alameda.

IV. NOTICE OF REMOVAL

14. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to counsel for the Plaintiffs, and a copy of the Notice of Removal will be filed with the Clerk of the Superior Court for the County of Alameda.

WHEREFORE, Defendant respectfully requests this action be duly removed to this Court, and that it proceed herein.

Dated: August 7, 2010


 Lindbergh Porter, Jr.
 LITTLER MENDELSON, P.C.
 Attorneys for Defendant
 Wells Fargo Bank, N.A.

Firmwide: 96389269.1 051995.1028

NOTICE OF REMOVAL

Exhibit 1



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Monica Balderama (196424); David Cheng (240926); Liana Beneli (256023) Initiative Legal Group, APC 1800 Century Park East, 2nd Floor Los Angeles, CA 90067 TELEPHONE NO.: (310) 556-5637 FAX NO.: (310) 861-9051 ATTORNEY FOR (Name): Plaintiffs, Irasema E. Greene, et al.		FOR COURT USE ONLY FILED ALAMEDA COUNTY JUN 25 2010 CLERK OF THE SUPERIOR COURT By <u>Michelle</u> Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: 1225 Fallon Street CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME: Rene C. Davidson Courthouse		CASE NUMBER: RG10522400 JUDGE: DEPT:
CASE NAME: Greene, et al. v. Wells Fargo Bank, N.A.		
CIVIL CASE COVER SHEET		
<input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (48) Other PIP/D/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/D/W/D (23) Non-PIP/D/W/D (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (18) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/D/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): 6
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: June 25, 2010

Liana Beneli

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 (Rev. July 1, 2007)**CIVIL CASE COVER SHEET**Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.govAmerican LegalNet, Inc.
www.FormsWorld.com

FILE BY FAX

ORIGINAL



SUMMONS
(CITACIÓN JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

WELLS FARGO BANK, N.A., a Delaware corporation; and DOES 1 through 10, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

IRASEMA E. GREENE; ADDITIONAL PARTIES ATTACHMENT FORM IS ATTACHED

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
ALAMEDA COUNTY

JUN 25 2010

CLERK OF THE SUPERIOR COURT

By Michelle R
Deputy

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO:** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Superior Court of California;

County of Alameda, Rene C. Davidson Courthouse, 1225 Fallon Street, Oakland, CA 94612

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Liana Beneli, Initiative Legal Group, APC 1800 Century Park East, 2nd Floor, LA, CA 90067; 310.556.5637

DATE: June 25, 2010
(Fecha)

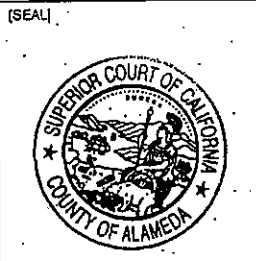
Clerk, by
(Secretario)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

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FILE BY FAX

ORIGINAL

SUM-200(A)

SHORT TITLE:

Greene, et al. v. Wells Fargo Bank, N.A.

CASE NUMBER:

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☒ Plaintiff ☐ Defendant ☐ Cross-Complainant ☐ Cross-Defendant

IRASEMA E. GREENE, KARYN RAE WINN, JARROD D. OSBORNE, BRANDON LEE DODD, NICOLE M. WIGGIN, BENJAMIN A. MANGABAT, LAURA J. BICHE, EUNICE Y. HONG MCLAUGHLIN, KIMBERLY PLOWMAN, SEAN MENDEZ, MARIO A. MENDOZA, GRACIELA SANCHEZ, MANUEL ZARAGOZA, ROGER D. VALLADARES, SAMIRA S. BADAWIYA, MARISA FRANCES TIJERINA, CRISTINA A. FADGEN, DANNY MICHAEL KREUZ, ANDRE LANDZAAT, ROSE BATAKAN, CHRISTINE MENDEZ GEROCHI, LAURI LYNN CASAZZA, STANLEY WATKINS, JARROD M. FASSIO, CHRISTINE SANCHEZ, KAREN L. FREITAS, JOSHUA LOPEZ JR., FABIOLA AVILA, JESSICA FAIRBANKS, LISA DELONG, GERALD WAYNE ALTIERI II, LESLIE VARGAS ROBERTS, NATHAN E. BROWNE, DARYL WENRICH, MARIO GILBERT HERNANDEZ, ERIN A. KERR, ANGEL SANTIAGO, SOPHIE FAITH EDDY, CHARLES J. RINALDI, KENNETH BRIAN BLASIC, ROSITA R. LACANGLACANG, HEATHER A. HANNEMAN, MICHAEL R. SMITH, HENRY CALERO, DAVID RIENTORD, KAREEN N. BERNARD, MARYAM M. GILLANY, KRISTIE KATHLEEN CLARK, DONALD DUSATKO, TAWNY SUFFECOO, KELLY K. SHEETS, FAITH I. HUNTER, DANIELLE R. SMITH, GABRIEL A. SORENSON, KATHERINE D. BANTIQUE, PAT ALTHIZER, BANIPAL BETPAROO, JED L. LEAKE, GERALD D. PARKS, JOSE PANIGBATAN, ROBERT A. YOUNG, PATRICK T. LARKIN, SHIRLEY L. NICHOLS, HAROLD A. BEHNKE, SAHAR MASARATI, WILLIAM J. MARCIANO JR., and ASHLEY COTTA, all individuals,

Page 1 of 1

Page 1 of 1



FILE BY FAX

INITIATIVE LEGAL GROUP APC
3800 CENTURY PARK EAST, SECOND FLOOR, LOS ANGELES, CALIFORNIA 90007

ORIGINAL

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MBalderrama@InitiativeLegal.com
David Cheng (SBN 240926)
DCheng@InitiativeLegal.com
Liana Beneli (SBN 256023)
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FILED
ALAMEDA COUNTY

JUN 25 2010

CLERK OF THE SUPERIOR COURT
By Michelle R. Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

IRASEMA E. GREENE, KARYN RAE
WINN, JARROD D. OSBORNE,
BRANDON LEE DODD, NICOLE M.
WIGGIN, BENJAMIN A. MANGABAT,
LAURA J. BICHE, EUNICE Y. HONG
MCLAUGHLIN, KIMBERLY
PLOWMAN, SEAN MENDEZ, MARIO A.
MENDOZA, GRACIELA SANCHEZ,
MANUEL ZARAGOZA, ROGER D.
VALLADARES, SAMIRA S.
BADA WIYA, MARISA FRANCES
TJERINA, CRISTINA A. FADGEN,
DANNY MICHAEL KREUZ, ANDRE
LANDZAAT, ROSE BATAKAN,
CHRISTINE MENDEZ GEROCHI,
LAURILYNN CASAZZA, STANLEY
WATKINS, JARROD M. FASSIO,
CHRISTINE SANCHEZ, KAREN L.
FREITAS, JOSHUA LOPEZ JR.,
FABIOLA AVILA, JESSICA
FAIRBANKS, LISA DELONG, GERALD
WAYNE ALTIERI II, LESLIE VARGAS
ROBERTS, NATHAN E. BROWNE,
DARYL WENRICH, MARIO GILBERT
HERNANDEZ, ERIN A. KERR, ANGEL
SANTIAGO, SOPHIE FAITH EDDY,
CHARLES J. RINALDI, KENNETH
BRIAN BLASIC, ROSITA R.
LACANGLACANG, HEATHER A.
HANNEMAN, MICHAEL R. SMITH,
HENRY CALERO, DAVID RIENTORD,
KAREEN N. BERNARD, MARYAM M.
GILLANY, KRISTIE KATHLEEN
CLARK, DONALD DUSATKO, TAWNY
SUFFECOOL, KELLY K. SHEETS,

Case No. CG10322400

COMPLAINT FOR:

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 2800 and 2802 (Unpaid Business Expenses);
- (3) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (4) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);
- (5) Violation of California Labor Code § 226(a) (Non-compliant Wage Statements); and
- (6) Violation of California Business & Professions Code §§ 17200, et seq.

Jury Trial Demanded

COMPLAINT

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1 FAITH I. HUNTER, DANIELLE R.
2 SMITH, GABRIEL A. SORENSON,
3 KATHERINE D. BANTIQUE, PAT
4 ALTHIZER, BANIPAL BÉTPAROO, JED
5 L. LEAKE, GERALD D. PARKS, JOSE
6 PANIGBATAN, ROBERT A. YOUNG,
7 PATRICK T. LARKIN, SHIRLEY L.
8 NICHOLS, HAROLD A. BEHNKE,
9 SAHAR MASARATI, WILLIAM J.
10 MARCIANO JR., and ASHLEY COTTA,
11 all individuals,

12 Plaintiffs,

13 vs.

14 WELLS FARGO BANK, N.A., a Delaware
15 corporation; and DOES 1 through 10,
16 inclusive,

17 Defendants.

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COMPLAINT

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1 Plaintiffs allege as follows:

2 JURISDICTION AND VENUE

3 1. The monetary damages and restitution sought by Plaintiffs exceed the minimal
4 jurisdiction limits of the Superior Court and will be established according to proof at trial.

5 The amount in controversy for each Plaintiff, including claims for compensatory damages and
6 pro rata share of attorneys' fees, is less than \$75,000. The amount in controversy is less than
7 \$5,000,000 in the aggregate, including claims for compensatory damages and pro rata share of
8 attorneys' fees.

9 2. This Court has jurisdiction over this action pursuant to the California
10 Constitution, Article VI, section 10, which grants the Superior Court "original jurisdiction in
11 all causes except those given by statute to other courts." The statutes under which this action
12 is brought do not specify any other basis for jurisdiction.

13 3. This Court has jurisdiction over all Defendants because, upon information and
14 belief, each party is either a citizen of California, has sufficient minimum contacts in
15 California, or otherwise intentionally avails itself of the California market so as to render the
16 exercise of jurisdiction over it by the California courts consistent with traditional notions of
17 fair play and substantial justice.

18 4. Venue is proper in this Court because, upon information and belief, one or
19 more of the named Defendants reside, transact business, or have offices in this county and
20 some of the acts and omissions alleged herein took place in this county.

21 THE PARTIES

22 5. Plaintiffs are residents of the State of California. Plaintiffs were employed by
23 the Defendant WELLS FARGO BANK, N.A., as Home Mortgage Consultants, Loan
24 Originators, Loan Officers, Mortgage Specialists, Loan Consultants, Mortgage Consultants,
25 Loan Processors, Reverse Mortgage Specialists, collectively referred to as ("HMCs").

26 6. Defendant WELLS FARGO BANK, N.A. was and is, upon information and
27 belief, a business entity incorporated in Delaware and headquartered in San Francisco,
28

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1 California, and at all times hereinafter mentioned an employer whose employees are engaged
2 throughout this county, the State of California, or the various states of the United States of
3 America. Defendant WELLS FARGO BANK, N.A. operates, as a separate division, an entity
4 headquartered outside of the State of California which sells and originates home mortgages
5 loans. Defendant WELLS FARGO BANK, N.A. employed Plaintiffs in the State of
6 California as HMCs to originate and produce mortgage loans.

7 7. Plaintiffs are unaware of the true names or capacities of the Defendants sued
8 herein under the fictitious names DOES 1 through 10, but pray for leave to amend and serve
9 such fictitiously named Defendants once their names and capacities become known.

10 8. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 10
11 are the partners, agents, owners, shareholders, managers or employees of WELLS FARGO
12 BANK, N. A. and/or WELLS FARGO BANK, N. A. and were acting on behalf of WELLS
13 FARGO BANK, N. A. and/or WELLS FARGO BANK, N. A. at all relevant times.

14 9. Plaintiffs are informed and believe, and thereon allege, that each and all of the
15 acts and omissions alleged herein was performed by, or is attributable to, WELLS FARGO
16 BANK, N. A. and/or WELLS FARGO BANK, N. A. and DOES 1 through 10 (collectively
17 "Defendants"), each acting as the agent for the other, with legal authority to act on the other's
18 behalf. The acts of any and all Defendants were in accordance with, and represent, the official
19 policy of Defendants.

20 10. At all relevant times, Defendants, and each of them, ratified each and every act
21 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
22 and abetted the acts and omissions of each and all the other Defendants in proximately causing
23 the damages herein alleged.

24 11. Plaintiffs are informed and believe, and thereon allege, that each of said
25 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
26 omissions, occurrences, and transactions alleged herein.

27 STATEMENT OF FACTS

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12. At all relevant times set forth, Defendants employed Plaintiffs as commission paid employees.

13. Defendants have employed Plaintiffs, who began and ended employment on different dates, as HMCs, which is a commission paid position, during the period from about February 10, 2001 to the present, at Defendants' multiple locations throughout California.

14. While employed as HMCs, Plaintiffs were engaged in originating, producing and selling home loans.

15. Defendants compensated Plaintiffs on a commission sales basis and did not keep records of Plaintiffs' work hours or their activities. Defendants paid Plaintiffs based on the loans that actually closed and recorded. Defendants never paid Plaintiffs any overtime or premium pay despite the fact that the Plaintiff routinely worked in excess of eight (8) hours per day and in excess of (40) hours per week. Rather, Defendants classified Plaintiffs as exempt from overtime compensation.

16. Defendants continue to employ commission paid employees within California.

GENERAL ALLEGATIONS

17. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should have known that Plaintiffs were entitled to receive certain wages for overtime compensation and that they were not receiving certain wages for overtime compensation. Defendants misclassified Plaintiffs as employees exempt from overtime because they received sales commissions.

18. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should have known that Plaintiffs were entitled to receive all meal periods or payment of one additional hour of pay at Plaintiffs' regular rate of pay when they did not receive a timely uninterrupted meal period.

19. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should have known that Plaintiffs were entitled to receive all rest periods or payment of one additional hour of pay at Plaintiffs' regular rate of pay when a rest period was missed.

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20. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should have known that Plaintiffs were entitled to receive full reimbursement for all business-related expenses and costs they incurred during the course and scope of their employment, and that they did not receive full reimbursement of applicable business-related expenses and costs they incurred.

21. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should have known that Plaintiffs were entitled to all commissions due to them, and that they did not receive all commissions due to them.

22. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should have known that Plaintiffs were entitled to receive complete and accurate wage statements in accordance with California law and that they did not receive complete and accurate wage statements that included, among other things, total hours worked and all applicable hourly and overtime rates.

23. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiffs, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly and intentionally failed to do so, and falsely represented to Plaintiffs that they were properly denied wages, all in order to increase Defendants' profits.

24. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due to him [or her] under this article."

FIRST CAUSE OF ACTION

Violation of California Labor Code §§ 510 and 1198

(Against All Defendants)

25. Plaintiffs incorporate by reference and re-allege as if fully stated herein the material allegations set out in paragraphs 1 through 24.

26. California Labor Code section 1198 and the applicable Industrial Welfare

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1 Commission ("IWC") Wage Order provide that it is unlawful to employ persons without
2 compensating them at a rate of pay either time-and-one-half or two-times that person's regular
3 rate of pay, depending on the number of hours worked by the person on a daily or weekly
4 basis.

5 27. Specifically, the applicable IWC Wage Order provides that Defendants are and
6 were required to pay Plaintiffs employed by Defendants, and working more than eight (8)
7 hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-one-half
8 for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
9 workweek.

10 28. The applicable IWC Wage Order further provides that Defendants are and were
11 required to pay Plaintiffs employed by Defendants, and working more than twelve (12) hours
12 in a day, overtime compensation at a rate of two times their regular rate of pay.

13 29. California Labor Code section 510 codifies the right to overtime compensation
14 at one-and-one-half-times the regular hourly rate for hours worked in excess of eight (8) hours
15 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day
16 of work, and to overtime compensation at twice the regular hourly rate for hours worked in
17 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
18 of work.

19 30. During the relevant time period, Plaintiffs consistently worked in excess of
20 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
21 hours in a week.

22 31. During the relevant time period, Defendants willfully failed to pay all overtime
23 wages owed to Plaintiffs. Plaintiffs were misclassified as exempt from overtime
24 compensation when they should have been paid overtime compensation for time worked in
25 excess of eight (8) hours per day and/or forty (40) hours per week.

26 32. Defendants' failure to pay Plaintiffs the unpaid balance of overtime
27 compensation, as required by California laws, violates the provisions of California Labor
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1 Code sections 510 and 1198, and is therefore unlawful.

2 33. Pursuant to California Labor Code section 1194, Plaintiffs are entitled to
3 recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

4 **SECOND CAUSE OF ACTION**

5 **Violation of California Labor Code §§ 2800 and 2802**

6 **(Against All Defendants)**

7 34. Plaintiffs incorporate by reference and re-allege as if fully stated herein the
8 material allegations set out in paragraphs 1 through 33.

9 35. At all times herein set forth, California Labor Code sections 2800 and 2802
10 provide that an employer must reimburse employees for all necessary expenditures.

11 36. Plaintiffs incurred necessary business-related expenses and costs that were not
12 fully reimbursed by Defendants, including and without limitation, gas, mileage, cell phone
13 expenses, and expenses for client meals, that resulted from their employment with Defendants.
14 Specifically, Defendants had, and continue to have, a policy and practice of requiring
15 employees, including Plaintiffs, to pay for said costs from their own funds. Defendants had,
16 and continue to have, a policy of not reimbursing employees, including Plaintiffs, for said
17 business-related expenses and costs.

18 37. Defendants have intentionally and willfully failed to fully reimburse Plaintiffs
19 for necessary business-related expenses and costs.

20 38. Plaintiffs are entitled to recover from Defendants their business-related
21 expenses incurred during the course and scope of their employment, plus interest, pursuant to
22 California Labor Code sections 2800 and 2802.

23 **THIRD CAUSE OF ACTION**

24 **Violation of California Labor Code §§ 201 and 202**

25 **(Against All Defendants)**

26 39. Plaintiffs incorporate by reference and re-allege as if fully stated herein the
27 material allegations set out in paragraphs 1 through 38.

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40. At all times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

41. During the relevant time period, Defendants willfully failed to pay Plaintiffs who are no longer employed by Defendants their wages, earned and unpaid, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

42. Defendants' failure to pay Plaintiffs who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

43. California Labor Code section 203 provides that if an employer willfully fails to pay wages owed; in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

44. Plaintiffs are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

FOURTH CAUSE OF ACTION

Violation of California Labor Code § 204

(Against All Defendants)

45. Plaintiffs incorporate by reference and re-allege as if fully stated herein the material allegations set out in paragraphs 1 through 44.

46. At all times herein set forth, California Labor Code section 204 provides that

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1 all wages earned by any person in any employment between the 1st and the 15th days,
2 inclusive, of any calendar month, other than those wages due upon termination of an
3 employee, are due and payable between the 16th and the 26th day of the month during which
4 the labor was performed.

5 47. At all times herein set forth, California Labor Code section 204 provides that
6 all wages earned by any person in any employment between the 16th and the last day,
7 inclusive, of any calendar month, other than those wages due upon termination of an
8 employee, are due and payable between the 1st and the 10th day of the following month.

9 48. At all times herein set forth, California Labor Code section 204 provides that
10 all wages earned for labor in excess of the normal work period shall be paid no later than the
11 payday for the next regular payroll period.

12 49. During the relevant time period, Defendants willfully failed to pay Plaintiffs all
13 wages due to them, within any time period permissible by California Labor Code section 204.

14 50. Plaintiffs are entitled to recover all remedies available for violations of
15 California Labor Code section 204.

16 FIFTH CAUSE OF ACTION

17 Violation of California Labor Code § 226(a)

18 (Against All Defendants)

19 51. Plaintiffs incorporate by reference and re-allege as if fully stated herein the
20 material allegations set out in paragraphs 1 through 50.

21 52. At all material times set forth herein, California Labor Code section 226(a)
22 provides that every employer shall furnish each of his or her employees an accurate itemized
23 wage statement in writing showing nine pieces of information, including all applicable hourly
24 rates, and total hours worked, among other things.

25 53. Defendants have intentionally and willfully failed to provide employees with
26 complete and accurate wage statements. The deficiencies include, among other things, the
27 failure to include the total number of hours worked by Plaintiffs and the failure to list all
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1 applicable hourly rates.

2 54. As a result of Defendants' violation of California Labor Code section 226(a),
3 Plaintiffs have suffered injury and damage to their statutorily-protected rights.

4 55. Specifically, Plaintiffs have been injured by Defendants' intentional violation
5 of California Labor Code section 226(a) because they were denied both their legal right to
6 receive, and their protected interest in receiving, accurate, itemized wage statements under
7 California Labor Code section 226(a).

8 56. Plaintiffs are entitled to recover from Defendants the greater of their actual
9 damages caused by Defendants' failure to comply with California Labor Code section 226(a),
10 or an aggregate penalty not exceeding four thousand dollars per employee.

11 57. Plaintiffs are also entitled to injunctive relief to ensure compliance with this
12 section, pursuant to California Labor Code section 226(g).

13 SIXTH CAUSE OF ACTION

14 Violation of California Business & Professions Code §§ 17200, et seq.

15 (Against All Defendants)

16 58. Plaintiffs incorporate by reference and re-allege as if fully stated herein the
17 material allegations set out in paragraphs 1 through 57.

18 59. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
19 unlawful, and harmful to Plaintiffs and to the general public. Plaintiffs seeks to enforce
20 important rights affecting the public interest within the meaning of Code of Civil Procedure
21 section 1021.5.

22 60. Defendants' activities, as alleged herein, are violations of California law, and
23 constitute unlawful business acts and practices in violation of California Business &
24 Professions Code sections 17200, et seq.

25 61. A violation of California Business & Professions Code sections 17200, et seq.
26 may be predicated on the violation of any state or federal law. In this instant case,
27 Defendants' policies and practices of requiring Plaintiffs, to work overtime without paying
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1 them proper compensation violates California Labor Code sections 510 and 1198.
2 Additionally, Defendants' policies and practices of requiring Plaintiffs to work through their
3 meal and rest periods without paying them proper compensation violate California Labor
4 Code sections 226.7 and 512(a). Defendants' policies and practices of not reimbursing its
5 employees, including Plaintiffs, for business-related expenses and costs violate California
6 Labor Code sections 2800 and 2802. Defendants' policies and practices of failing to timely
7 pay wages to Plaintiffs violate California Labor Code sections 201, 202 and 204.
8 Furthermore, Defendants' policies and practices of failing to pay overtime and minimum
9 wages violate Fair Labor Standards Act, 29 U.S.C. sections 206, 207.

10 62. Plaintiffs have been personally injured by Defendants' unlawful business acts
11 and practices as alleged herein, including but not necessarily limited to the loss of money
12 and/or property.

13 63. Pursuant to California Business & Professions Code sections 17200, et seq.,
14 Plaintiffs are entitled to restitution of the wages withheld and retained by Defendants during a
15 period from about February 10, 2001 to the present; a permanent injunction requiring
16 Defendants to pay all outstanding wages due to Plaintiffs; an award of attorneys' fees pursuant
17 to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award
18 of costs.

19 REQUEST FOR JURY TRIAL

20 Plaintiffs request a trial by jury.

21 PRAYER FOR RELIEF

22 Plaintiffs pray for relief and judgment against Defendants of less than \$75,000 per
23 Plaintiff and less than \$5,000,000 in the aggregate, jointly and severally, as follows:

24 As to the First Cause of Action

25 1. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to
27 pay all overtime wages due to Plaintiffs;
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2. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

3. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

4. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a); and

5. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

6. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to pay all business-related expenses owed to Plaintiffs;

7. For unpaid wages and such general and special damages as may be appropriate;

8. For pre-judgment interest on any unpaid wages from the date such amounts were due;

9. For all actual, consequential and incidental losses and damages, according to proof; and

10. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

11. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202 and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiffs no longer employed by Defendants.

12. For all actual, consequential and incidental losses and damages, according to proof;

13. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiffs who have left Defendants' employ;

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1 14. For pre-judgment interest on any unpaid wages from the date such amounts
2 were due; and

3 15. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 **As to the Fourth Cause of Action**

6 16. That the Court declare, adjudge and decree that Defendants violated California
7 Labor Code section 204 by willfully failing to pay all compensation owed at the time required
8 by California Labor Code section 204, to Plaintiffs;

9 17. For all actual, consequential and incidental losses and damages, according to
10 proof;

11 18. For pre-judgment interest on any untimely paid compensation, from the date
12 such amounts were due; and

13 19. For such other and further relief as the Court may deem equitable and
14 appropriate.

15 **As to the Fifth Cause of Action**

16 20. That the Court declare, adjudge and decree that Defendants violated the record-
17 keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders
18 as to Plaintiffs, and willfully failed to provide accurate itemized wage statements thereto;

19 21. For all actual, consequential and incidental losses and damages, according to
20 proof;

21 22. For statutory penalties pursuant to California Labor Code section 226(e);

22 23. For injunctive relief to ensure compliance with this section, pursuant to
23 California Labor Code section 226(g); and

24 24. For such other and further relief as the Court may deem equitable and
25 appropriate.

26 **As to the Sixth Cause of Action**

27 25. That the Court declare, adjudge and decree that Defendants violated California
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Business and Professions Code sections 17200, et seq. by failing to provide Plaintiffs all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiffs, failing to pay for all missed meal and rest periods to Plaintiffs, failing to reimburse Plaintiffs for all business-related expenses, failing to pay at least minimum wages to Plaintiffs, and failing to pay Plaintiffs' wages timely as required by California Labor Code sections 201, 202 and 204;

26. For restitution of unpaid wages to Plaintiffs and prejudgment interest from the day such amounts were due and payable;

27. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code sections 17200 et seq.;

28. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

29. For injunctive relief to ensure compliance with this section, pursuant to California Business & Professions Code sections 17200, et seq.; and

30. For such other and further relief as the Court may deem equitable and appropriate.

Dated: June 25, 2010

Respectfully submitted,

Initiative Legal Group APC

By: 

Mónica Balderrama
David Cheng
Liana Beneli

Attorneys for All Plaintiffs

Initiative Legal Group APC
 Attn: Beneli, Liana
 1800 Century Park East
 2nd Floor
 Los Angeles, CA 90067

Superior Court of California, County of Alameda

Greene	Plaintiff/Petitioner(s)	No. <u>RG10522400</u>
VS.		NOTICE OF CASE MANAGEMENT CONFERENCE AND ORDER
Wells Fargo Bank, N.A., a Delaware corporation	Defendant/Respondent(s)	Unlimited Jurisdiction
(Abbreviated Title)		

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD.

Notice is given that a Case Management Conference has been scheduled as follows:

Date: 11/08/2010 Time: 03:15 PM	Department: 302 Location: George E. McDonald Hall of Justice Second Floor 2233 Shoreline Drive, Alameda CA 94501 Internet: http://www.alameda.courts.ca.gov	Judge: Patrick J. Zika Clerk: Benilda Nelson Clerk telephone: (510) 263-4302 E-mail: Dept.302@alameda.courts.ca.gov Fax: (510) 263-4330
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ORDERS

1. You must:
 - a. Serve all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (CRC 3.110(b));
 - b. Give notice of this conference to any party not included in this notice and file proof of service;
 - c. Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 3.724 no later than 30 calendar days before the date set for the Case Management Conference;
 - d. File and serve a completed Case Management Statement (use of Judicial Council Form CM-110 is mandatory) at least 15 days before the Case Management Conference (CRC 3.725)*
2. If you do not follow the orders above, you are hereby ordered to show cause why you should not be sanctioned under CRC 2.30. The hearing on the Order to Show Cause re: Sanctions will be at the same time as the Case Management Conference. Sanctions may include monetary sanctions and any other sanction permitted by law, including striking pleadings or dismissing the action.
3. You are further ordered to appear in person† (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.
4. The Direct Calendar Judge will issue orders at the conclusion of the conference that should include:
 - a. Referring to ADR and setting an ADR completion date
 - b. Dismissing or severing claims or parties
 - c. Setting a trial date.

* Case Management Statements may be filed by E-delivery, by emailing them to the following address: EDelivery@alameda.courts.ca.gov. No fee is charged for this service. For further information, go to Direct Calendar Departments at <http://apps.alameda.courts.ca.gov/domainweb>.

† Telephonic appearances at Case Management Conferences may be available by contacting CourtCall, an independent vendor, at least 3 business days prior to the scheduled conference. Parties may make arrangements by calling 1-888-882-6878, or faxing a service request to 1-888-882-2946. This service is subject to charges by the vendor.

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice of Hearing by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 06/30/2010.

By



Deputy Clerk

Superior Court of California, County of Alameda



Notice of Assignment of Judge for All Purposes

Case Number: RG10522400

Case Title: Greene VS Wells Fargo Bank, N.A., a Delaware corporation

Date of Filing: 06/25/2010

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to Rule 3.734 of the California Rules of Court and Title 3 Chapter 2 of the Local Rules of the Superior Court of California, County of Alameda, this action is hereby assigned by the Presiding Judge for all purposes to:

Judge:	Patrick J. Zika
Department:	302
Address:	George E. McDonald Hall of Justice 2233 Shoreline Drive Alameda CA 94501
Phone Number:	(510) 263-4302
Fax Number:	(510) 263-4330
Email Address:	Dept.302@alameda.courts.ca.gov

Under direct calendaring, this case is assigned to a single judge for all purposes including trial.

Please note: In this case, any challenge pursuant to Code of Civil Procedure §170.6 must be exercised within the time period provided by law. (See Govt. Code 68616(i); Motion Picture and Television Fund Hosp. v. Superior Court (2001) 88 Cal.App.4th 488, 494; and Code Civ. Proc. §1013.)

IT IS THE DUTY OF EACH PLAINTIFF AND CROSS COMPLAINANT TO SERVE A COPY OF THIS NOTICE IN ACCORDANCE WITH LOCAL RULES.

General Procedures

All pleadings and other documents must be filed in the clerk's office at any court location except when the Court permits the lodging of material directly in the assigned department. All documents, with the exception of the original summons and the original civil complaint, shall have clearly typed on the face page of each document, under the case number, the following:

ASSIGNED FOR ALL PURPOSES TO
JUDGE Patrick J. Zika
DEPARTMENT 302

All parties are expected to know and comply with the Local Rules of this Court, which are available on the Court's website at:
<http://www.alameda.courts.ca.gov/courts/rules/index.shtml> and with the California Rules of Court, which are available at www.courtinfo.ca.gov.

Parties must meet and confer to discuss the effective use of mediation or other alternative dispute processes (ADR) prior to the Initial Case Management Conference. The court encourages parties to file a "Stipulation to Attend ADR and Delay Initial Case Management Conference for 90 Days". Plaintiff received that form in the ADR information package at the time the complaint was filed. The court's Web site also contains this form and other ADR information. If the parties do not stipulate to attend ADR, the parties must be prepared to discuss referral to ADR at the Initial Case Management Conference.

The use of e-mail is generally preferred by the court to reduce the heavy burden on court staff in responding to telephone and fax communications, particularly for requests relating to scheduling of case management events. Use of e-mail will greatly facilitate a prompt response by the court and staff to your inquiries.

Please note that use of e-mail/fax is not a substitute for the filing of pleadings or other documents. Counsel and self-represented parties are reminded of the obligation to provide copies of all such communications to opposing counsel and self-represented parties on a contemporaneous basis. If the communication requests a response from the court, e-mail addresses of all opposing counsel/self-represented parties shall be supplied in the original e-mail whenever available to the sender. When sending an e-mail, the e-mail must be free of viruses and preferably in Microsoft Word format. Do not send the Court courtesy copy of any pleading unless specifically requested.

Schedule for Department 302

The following scheduling information is subject to change at any time, without notice. Please contact the department at the phone number or email address noted above if you have questions. Parties must confer on agreeable dates consistent with the court's schedules before contacting the clerk to reserve a date.

- Trials generally are held: Mondays through Thursdays at 9:00 a.m.
- Case Management Conferences are held: Initial Case Management Conference: Wednesdays and Thursdays at 3:15 p.m.
- Case Management Conference Continuances: Fridays at 9:00 a.m.
- Law and Motion matters are heard: Mondays and Tuesdays at 3:15 p.m. Contact the clerk to reserve a date before filing any law and motion matters. For Tentative Rulings, please see specifically Local Rule 3.30(c). To contest a ruling, call or e-mail Dept. 302 in a timely manner.
- Settlement Conferences are heard: Fridays at 10:00 a.m.
- Ex Parte matters are heard: Mondays and Wednesdays at 3:00 p.m. Contact the clerk to reserve a date and time before noticing any party.
- Contact the clerk to reserve a date before filing any demurrers. Contact the clerk to reserve a date before filing any summary judgments.

Law and Motion Procedures

To obtain a hearing date for a Law and Motion or ex parte matter, parties must contact the department as follows:

- Motion Reservations

Email: Dept.302@alameda.courts.ca.gov

Trial Management Compliance hearings and first day of trial: Fridays at 2:00 p.m.
Compliance hearings are heard: Mondays through Thursdays at 3:15 p.m. and
Fridays at 9:00 a.m.

- Ex Parte Matters

Email: Dept.302@alameda.courts.ca.gov

Contact the clerk to reserve a date and time before noticing any party.

Tentative Rulings

The court may issue tentative rulings in accordance with the Local Rules. Tentative rulings will become the Court's order unless contested in accordance with the Local Rules. Tentative rulings will be available at:

- Website: www.alameda.courts.ca.gov/domainweb, Calendar Information for Dept. 302
- Phone: 1-866-223-2244

Dated: 06/29/2010

A handwritten signature in black ink, appearing to read "Hon. L. R. Rios".

Presiding Judge,
Superior Court of California, County of Alameda

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown on the attached Notice of Initial Case Management Conference and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 06/30/2010

By



Deputy Clerk



SUM-100

SUMMONS / *1st Amended Complaint*
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

WELLS FARGO BANK, N.A., a Delaware corporation; and DOES 1 through 10, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

IRASEMA E. GREENE; ADDITIONAL PARTIES ATTACHMENT FORM IS ATTACHED

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
ALAMEDA COUNTY

JUL - 6 2010

CLERK OF THE SUPERIOR COURT

Patricia A. Sweeten

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Superior Court of California,
County of Alameda, Rene C. Davidson Courthouse, 1225 Fallon Street,
Oakland, CA 94612

CASE NUMBER:
(Número del Caso):

RG10522400

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

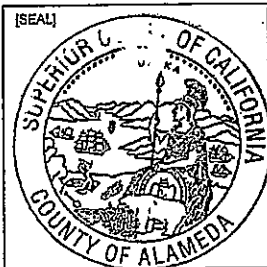
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Liana Beneli, Initiative Legal Group, APC 1800 Century Park East, 2nd Floor, LA, CA 90067; 310.556.5637

DATE: July 6, 2010
(Fecha)

PAT S. SWEETEN

Clerk, by *Patricia A. Sweeten*, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)

- ☐ other (specify):
4. ☐ by personal delivery on (date):

FILE BY FAX

ORIGINAL

SUM-200(A)

SHORT TITLE: Greene, et al. v. Wells Fargo Bank, N.A.	CASE NUMBER: RG10522400
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INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
 → If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☒ Plaintiff ☐ Defendant ☐ Cross-Complainant ☐ Cross-Defendant

IRASEMA E. GREENE, KARYN RAE WINN, JARROD D. OSBORNE, BRANDON LEE DODD, NICOLE M. WIGGIN, BENJAMIN A. MANGABAT, LAURA J. BICHE, EUNICE Y. HONG MCLAUGHLIN, KIMBERLY PLOWMAN, SEAN MENDEZ, MARIO A. MENDOZA, GRACIELA SANCHEZ, MANUEL ZARAGOZA, ROGER D. VALLADARES, SAMIRA S. BADAWIYA, MARISA FRANCES TIJERINA, CRISTINA A. FADGEN, DANNY MICHAEL KREUZ, ANDRE LANDZAAT, ROSE BATACAN, CHRISTINE MENDEZ GEROCHI, LAURI LYNN CASAZZA, STANLEY WATKINS, JARROD M. FASSIO, CHRISTINE SANCHEZ, KAREN L. FREITAS, JOSHUA LOPEZ JR., FABIOLA AVILA, JESSICA FAIRBANKS, LISA DELONG, GERALD WAYNE ALTIERI II, LESLIE VARGAS ROBERTS, NATHAN E. BROWNE, ANTONIO J. BUSALACCHI, MARIO GILBERT HERNANDEZ, ERIN A. KERR, ANGEL SANTIAGO, SOPHIE FAITH EDDY, CHARLES J. RINALDI, KENNETH BRIAN BLASIC, ROSITA R. LACANGLACANG, HEATHER A. HANNEMAN, MICHAEL R. SMITH, HENRY CALERO, DAVID RIENTORD, KAREEN N. BERNARD, MARYAM M. GILLANY, KRISTIE KATHLEEN CLARK, DONALD DUSATKO, TAWNY SUFFECPOOL, KELLY K. SHEETS, FAITH I. HUNTER, DANIELLE R. SMITH, GABRIEL A. SORENSON, KATHERINE D. BANTIQUÉ, PAT ALTHIZER, BANIPAL BETPAROO, MELISSA LYNN WATERS SPANEL, TERESA M. HOFFER, JOSE PANIGBATAN, DAVIN M. STANBURY, LUANNE M. RANDOLPH, ASHLEY HUBNIK, HAROLD A. BEENKE, SAHAR MASARATI, WILLIAM J. MARCIANO JR., SHIRLEY L. NICHOLS, GLORIA MUNOZ, JULIO RUBEN MEDRANO, FIORELLA G. GIUSTI-BARRERA, KENNETH PORTER, PATRICK T. LARKIN, ROBERT A. YOUNG, GARRETT N. SMITH, GERALD D. PARKS, JED L. LEAKE, ERIC R. NOBLES SR., LISA M. MALDONADO, JENNIFER LENA STRAWN, JOANNA V. LOPEZ, EDNA GRAYBILL, SCOTT L. VISNAPUU, THOMAS WITTHAUER, LAVERNE M. JOHANSEN, DAVID MICHAEL AUTLER, HANK RHOADS, JANNI RODRIGUEZ, ILEANA A. GARAKANI, DORA E. SANCHEZ, MICHAEL ANTHONY GARCIA, CHRISTINA MICHELLE MUNGUA, JULIE SOLANO, LIA NICHELLE MCGINNIS, SOFIA SANDOVAL, CAROL M. SASANO, RICHELLE J. YANES, BERNARD ISRAEL, and ASHLEY COTTA, all individuals,

Page 1 of 1

Page 1 of 1



FILED
ALAMEDA COUNTY

JUL - 6 2010

CLERK OF THE SUPERIOR COURT

Marissa K. Matte

FILE BY FAX

INITIATIVE LEGAL GROUP APC
1800 CENTURY PARK EAST, SECOND FLOOR, LOS ANGELES, CALIFORNIA 90067

ORIGINAL

Mónica Balderrama (SBN 196424)
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LBeneli@InitiativeLegal.com
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Los Angeles, California 90067
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Facsimile: (310) 861-9051

Attorneys for All Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

Case No.: RG10522400

FIRST AMENDED COMPLAINT FOR:

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 2800 and 2802 (Unpaid Business Expenses);
- (3) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (4) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);
- (5) Violation of California Labor Code § 226(a) (Non-compliant Wage Statements); and
- (6) Violation of California Business & Professions Code §§ 17200, et seq.

Jury Trial Demanded

IRASEMA E. GREENE, KARYN RAE WINN, JARROD D. OSBORNE, BRANDON LEE DODD, NICOLE M. WIGGIN, BENJAMIN A. MANGABAT, LAURA J. BICHE, EUNICE Y. HONG MCLAUGHLIN, KIMBERLY PLOWMAN, SEAN MENDEZ, MARIO A. MENDOZA, GRACIELA SANCHEZ, MANUEL ZARAGOZA, ROGER D. VALLADARES, SAMIRA S. BADAWIYA, MARISA FRANCES TIJERINA, CRISTINA A. FADGEN, DANNY MICHAEL KREUZ, ANDRE LANDZAAT, ROSE BATACAN, CHRISTINE MENDEZ GEROCCHI, LAURI LYNN CASAZZA, STANLEY WATKINS, JARROD M. FASSIO, CHRISTINE SANCHEZ, KAREN L. FREITAS, JOSHUA LOPEZ JR., FABIOLA AVILA, JESSICA FAIRBANKS, LISA DELONG, GERALD WAYNE ALTIERI II, LESLIE VARGAS ROBERTS, NATHAN E. BROWNE, ANTONIO J. BUSALACCHI, MARIO GILBERT HERNANDEZ, ERIN A. KERR, ANGEL SANTIAGO, SOPHIE FAITH EDDY, CHARLES J. RINALDI, KENNETH BRIAN BLASIC, ROSITA R. LACANGLACANG, HEATHER A. HANNEMAN, MICHAEL R. SMITH, HENRY CALERO, DAVID RIENTORD, KAREEN N. BERNARD, MARYAM M. GILLANY, KRISTIE KATHLEEN CLARK, DONALD DUSATKO, TAWNY SUFFECOOL, KELLY K. SHEETS,

FIRST AMENDED COMPLAINT

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1 FAITH I. HUNTER, DANIELLE R.
2 SMITH, GABRIEL A. SORENSON,
3 KATHERINE D. BANTIQUE, PAT
4 ALTHIZER, BANIPAL BETPAROO,
5 MELISSA LYNN WATERS SPANEL,
6 TERESA M. HOFFER, JOSE
7 PANIGBATAN, DAVIN M. STANBURY,
8 LUANNE M. RANDOLPH, ASHLEY
9 HUBNIK, HAROLD A. BEHNKE,
10 SAHAR MASARATI, WILLIAM J.
11 MARCIANO JR., SHIRLEY L. NICHOLS,
12 GLORIA MUNOZ, JULIO RUBEN
13 MEDRANO, FIORELLA G. GIUSTI-
14 BARRERA, KENNETH PORTER,
15 PATRICK T. LARKIN, ROBERT A.
16 YOUNG, GARRETT N. SMITH,
17 GERALD D. PARKS, JED L. LEAKE,
18 ERIC R. NOBLES SR., LISA M.
19 MALDONADO, JENNIFER LENA
20 STRAWN, JOANNA V. LOPEZ, EDNA
21 GRAYBILL, SCOTT L. VISNAPUU,
22 THOMAS WITTHAUER, LAVERNE M.
23 JOHANSEN, DAVID MICHAEL
24 AUTLER, HANK RHOADS, JANNI
25 RODRIGUEZ, ILEANA A. GARAKANI,
26 DORA E. SANCHEZ, MICHAEL
27 ANTHONY GARCIA, CHRISTINA
28 MICHELLE MUNGUA, JULIE
SOLANO, LIA NICHELLE MCGINNIS,
SOFIA SANDOVAL, CAROL M.
SASANO, RICHELLE J. YANES,
BERNARD ISRAEL, and ASHLEY
COTTA, all individuals,

Plaintiffs,

vs.

WELLS FARGO BANK, N.A., a Delaware
corporation; and DOES 1 through 10,
inclusive,

Defendants.

1 Plaintiffs allege as follows:

2 **JURISDICTION AND VENUE**

3 1. The monetary damages and restitution sought by Plaintiffs exceed the minimal
4 jurisdiction limits of the Superior Court and will be established according to proof at trial.
5 The amount in controversy for each Plaintiff, including claims for compensatory damages and
6 pro rata share of attorneys' fees, is less than \$75,000. The amount in controversy is less than
7 \$5,000,000 in the aggregate, including claims for compensatory damages and pro rata share of
8 attorneys' fees.

9 2. This Court has jurisdiction over this action pursuant to the California
10 Constitution, Article VI, section 10, which grants the Superior Court "original jurisdiction in
11 all causes except those given by statute to other courts." The statutes under which this action
12 is brought do not specify any other basis for jurisdiction.

13 3. This Court has jurisdiction over all Defendants because, upon information and
14 belief, each party is either a citizen of California, has sufficient minimum contacts in
15 California, or otherwise intentionally avails itself of the California market so as to render the
16 exercise of jurisdiction over it by the California courts consistent with traditional notions of
17 fair play and substantial justice.

18 4. Venue is proper in this Court because, upon information and belief, one or
19 more of the named Defendants reside, transact business, or have offices in this county and
20 some of the acts and omissions alleged herein took place in this county.

21 **THE PARTIES**

22 5. Plaintiffs are residents of the State of California. Plaintiffs were employed by
23 the Defendant WELLS FARGO BANK, N.A., as Home Mortgage Consultants, Loan
24 Originators, Loan Officers, Mortgage Specialists, Loan Consultants, Mortgage Consultants,
25 Loan Processors, Reverse Mortgage Specialists, collectively referred to as ("HMCs").

26 6. Defendant WELLS FARGO BANK, N.A. was and is, upon information and
27 belief, a business entity incorporated in Delaware and headquartered in San Francisco,
28

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California, and at all times hereinafter mentioned an employer whose employees are engaged throughout this county, the State of California, or the various states of the United States of America. Defendant WELLS FARGO BANK, N.A. operates, as a separate division, an entity headquartered outside of the State of California which sells and originates home mortgages loans. Defendant WELLS FARGO BANK, N.A. employed Plaintiffs in the State of California as HMCs to originate and produce mortgage loans.

7. Plaintiffs are unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1 through 10, but pray for leave to amend and serve such fictitiously named Defendants once their names and capacities become known.

8. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 10 are the partners, agents, owners, shareholders, managers or employees of WELLS FARGO BANK, N. A. and/or WELLS FARGO BANK, N. A. and were acting on behalf of WELLS FARGO BANK, N. A. and/or WELLS FARGO BANK, N. A. at all relevant times.

9. Plaintiffs are informed and believe, and thereon allege, that each and all of the acts and omissions alleged herein was performed by, or is attributable to, WELLS FARGO BANK, N. A. and/or WELLS FARGO BANK, N. A. and DOES 1 through 10 (collectively "Defendants"), each acting as the agent for the other, with legal authority to act on the other's behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

10. At all relevant times, Defendants, and each of them, ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

11. Plaintiffs are informed and believe, and thereon allege, that each of said Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

STATEMENT OF FACTS

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12. At all relevant times set forth, Defendants employed Plaintiffs as commission paid employees.

13. Defendants have employed Plaintiffs, who began and ended employment on different dates, as HMCs, which is a commission paid position, during the period from about February 10, 2001 to the present, at Defendants' multiple locations throughout California.

14. While employed as HMCs, Plaintiffs were engaged in originating, producing and selling home loans.

15. Defendants compensated Plaintiffs on a commission sales basis and did not keep records of Plaintiffs' work hours or their activities. Defendants paid Plaintiffs based on the loans that actually closed and recorded. Defendants never paid Plaintiffs any overtime or premium pay despite the fact that the Plaintiff routinely worked in excess of eight (8) hours per day and in excess of (40) hours per week. Rather, Defendants classified Plaintiffs as exempt from overtime compensation.

16. Defendants continue to employ commission paid employees within California.

GENERAL ALLEGATIONS

17. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should have known that Plaintiffs were entitled to receive certain wages for overtime compensation and that they were not receiving certain wages for overtime compensation. Defendants misclassified Plaintiffs as employees exempt from overtime because they received sales commissions.

18. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should have known that Plaintiffs were entitled to receive all meal periods or payment of one additional hour of pay at Plaintiffs' regular rate of pay when they did not receive a timely uninterrupted meal period.

19. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should have known that Plaintiffs were entitled to receive all rest periods or payment of one additional hour of pay at Plaintiffs' regular rate of pay when a rest period was missed.

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20. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should have known that Plaintiffs were entitled to receive full reimbursement for all business-related expenses and costs they incurred during the course and scope of their employment, and that they did not receive full reimbursement of applicable business-related expenses and costs they incurred.

21. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should have known that Plaintiffs were entitled to all commissions due to them, and that they did not receive all commissions due to them.

22. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should have known that Plaintiffs were entitled to receive complete and accurate wage statements in accordance with California law and that they did not receive complete and accurate wage statements that included, among other things, total hours worked and all applicable hourly and overtime rates.

23. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiffs, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly and intentionally failed to do so, and falsely represented to Plaintiffs that they were properly denied wages, all in order to increase Defendants' profits.

24. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due to him [or her] under this article."

FIRST CAUSE OF ACTION

Violation of California Labor Code §§ 510 and 1198

(Against All Defendants)

25. Plaintiffs incorporate by reference and re-allege as if fully stated herein the material allegations set out in paragraphs 1 through 24.

26. California Labor Code section 1198 and the applicable Industrial Welfare

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1 Commission ("IWC") Wage Order provide that it is unlawful to employ persons without
2 compensating them at a rate of pay either time-and-one-half or two-times that person's regular
3 rate of pay, depending on the number of hours worked by the person on a daily or weekly
4 basis.

5 27. Specifically, the applicable IWC Wage Order provides that Defendants are and
6 were required to pay Plaintiffs employed by Defendants, and working more than eight (8)
7 hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-one-half
8 for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
9 workweek.

10 28. The applicable IWC Wage Order further provides that Defendants are and were
11 required to pay Plaintiffs employed by Defendants, and working more than twelve (12) hours
12 in a day, overtime compensation at a rate of two times their regular rate of pay.

13 29. California Labor Code section 510 codifies the right to overtime compensation
14 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
15 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day
16 of work, and to overtime compensation at twice the regular hourly rate for hours worked in
17 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
18 of work.

19 30. During the relevant time period, Plaintiffs consistently worked in excess of
20 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
21 hours in a week.

22 31. During the relevant time period, Defendants willfully failed to pay all overtime
23 wages owed to Plaintiffs. Plaintiffs were misclassified as exempt from overtime
24 compensation when they should have been paid overtime compensation for time worked in
25 excess of eight (8) hours per day and/or forty (40) hours per week.

26 32. Defendants' failure to pay Plaintiffs the unpaid balance of overtime
27 compensation, as required by California laws, violates the provisions of California Labor
28

1 Code sections 510 and 1198, and is therefore unlawful.

2 33. Pursuant to California Labor Code section 1194, Plaintiffs are entitled to
3 recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

4 **SECOND CAUSE OF ACTION**

5 **Violation of California Labor Code §§ 2800 and 2802**

6 **(Against All Defendants)**

7 34. Plaintiffs incorporate by reference and re-allege as if fully stated herein the
8 material allegations set out in paragraphs 1 through 33.

9 35. At all times herein set forth, California Labor Code sections 2800 and 2802
10 provide that an employer must reimburse employees for all necessary expenditures.

11 36. Plaintiffs incurred necessary business-related expenses and costs that were not
12 fully reimbursed by Defendants, including and without limitation, gas, mileage, cell phone
13 expenses, and expenses for client meals, that resulted from their employment with Defendants.
14 Specifically, Defendants had, and continue to have, a policy and practice of requiring
15 employees, including Plaintiffs, to pay for said costs from their own funds. Defendants had,
16 and continue to have, a policy of not reimbursing employees, including Plaintiffs, for said
17 business-related expenses and costs.

18 37. Defendants have intentionally and willfully failed to fully reimburse Plaintiffs
19 for necessary business-related expenses and costs.

20 38. Plaintiffs are entitled to recover from Defendants their business-related
21 expenses incurred during the course and scope of their employment, plus interest, pursuant to
22 California Labor Code sections 2800 and 2802.

23 **THIRD CAUSE OF ACTION**

24 **Violation of California Labor Code §§ 201 and 202**

25 **(Against All Defendants)**

26 39. Plaintiffs incorporate by reference and re-allege as if fully stated herein the
27 material allegations set out in paragraphs 1 through 38.

40. At all times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

41. During the relevant time period, Defendants willfully failed to pay Plaintiffs who are no longer employed by Defendants their wages, earned and unpaid, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

42. Defendants' failure to pay Plaintiffs who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

43. California Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

44. Plaintiffs are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

FOURTH CAUSE OF ACTION

Violation of California Labor Code § 204

(Against All Defendants)

45. Plaintiffs incorporate by reference and re-allege as if fully stated herein the material allegations set out in paragraphs 1 through 44.

46. At all times herein set forth, California Labor Code section 204 provides that

1 all wages earned by any person in any employment between the 1st and the 15th days,
2 inclusive, of any calendar month, other than those wages due upon termination of an
3 employee, are due and payable between the 16th and the 26th day of the month during which
4 the labor was performed.

5 47. At all times herein set forth, California Labor Code section 204 provides that
6 all wages earned by any person in any employment between the 16th and the last day,
7 inclusive, of any calendar month, other than those wages due upon termination of an
8 employee, are due and payable between the 1st and the 10th day of the following month.

9 48. At all times herein set forth, California Labor Code section 204 provides that
10 all wages earned for labor in excess of the normal work period shall be paid no later than the
11 payday for the next regular payroll period.

12 49. During the relevant time period, Defendants willfully failed to pay Plaintiffs all
13 wages due to them, within any time period permissible by California Labor Code section 204.

14 50. Plaintiffs are entitled to recover all remedies available for violations of
15 California Labor Code section 204.

16 **FIFTH CAUSE OF ACTION**

17 **Violation of California Labor Code § 226(a)**

18 **(Against All Defendants)**

19 51. Plaintiffs incorporate by reference and re-allege as if fully stated herein the
20 material allegations set out in paragraphs 1 through 50.

21 52. At all material times set forth herein, California Labor Code section 226(a)
22 provides that every employer shall furnish each of his or her employees an accurate itemized
23 wage statement in writing showing nine pieces of information, including all applicable hourly
24 rates, and total hours worked, among other things.

25 53. Defendants have intentionally and willfully failed to provide employees with
26 complete and accurate wage statements. The deficiencies include, among other things, the
27 failure to include the total number of hours worked by Plaintiffs and the failure to list all
28

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1 applicable hourly rates.

2 54. As a result of Defendants' violation of California Labor Code section 226(a),
3 Plaintiffs have suffered injury and damage to their statutorily-protected rights.

4 55. Specifically, Plaintiffs have been injured by Defendants' intentional violation
5 of California Labor Code section 226(a) because they were denied both their legal right to
6 receive, and their protected interest in receiving, accurate, itemized wage statements under
7 California Labor Code section 226(a).

8 56. Plaintiffs are entitled to recover from Defendants the greater of their actual
9 damages caused by Defendants' failure to comply with California Labor Code section 226(a),
10 or an aggregate penalty not exceeding four thousand dollars per employee.

11 57. Plaintiffs are also entitled to injunctive relief to ensure compliance with this
12 section, pursuant to California Labor Code section 226(g).

13 SIXTH CAUSE OF ACTION

14 Violation of California Business & Professions Code §§ 17200, et seq.

15 (Against All Defendants)

16 58. Plaintiffs incorporate by reference and re-allege as if fully stated herein the
17 material allegations set out in paragraphs 1 through 57.

18 59. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
19 unlawful, and harmful to Plaintiffs and to the general public. Plaintiffs seeks to enforce
20 important rights affecting the public interest within the meaning of Code of Civil Procedure
21 section 1021.5.

22 60. Defendants' activities, as alleged herein, are violations of California law, and
23 constitute unlawful business acts and practices in violation of California Business &
24 Professions Code sections 17200, et seq.

25 61. A violation of California Business & Professions Code sections 17200, et seq.
26 may be predicated on the violation of any state or federal law. In this instant case,
27 Defendants' policies and practices of requiring Plaintiffs, to work overtime without paying
28

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1 them proper compensation violates California Labor Code sections 510 and 1198.
2 Additionally, Defendants' policies and practices of requiring Plaintiffs to work through their
3 meal and rest periods without paying them proper compensation violate California Labor
4 Code sections 226.7 and 512(a). Defendants' policies and practices of not reimbursing its
5 employees, including Plaintiffs, for business-related expenses and costs violate California
6 Labor Code sections 2800 and 2802. Defendants' policies and practices of failing to timely
7 pay wages to Plaintiffs violate California Labor Code sections 201, 202 and 204.
8 Furthermore, Defendants' policies and practices of failing to pay overtime and minimum
9 wages violate Fair Labor Standards Act, 29 U.S.C. sections 206, 207.

10 62. Plaintiffs have been personally injured by Defendants' unlawful business acts
11 and practices as alleged herein, including but not necessarily limited to the loss of money
12 and/or property.

13 63. Pursuant to California Business & Professions Code sections 17200, et seq.,
14 Plaintiffs are entitled to restitution of the wages withheld and retained by Defendants during a
15 period from about February 10, 2001 to the present; a permanent injunction requiring
16 Defendants to pay all outstanding wages due to Plaintiffs; an award of attorneys' fees pursuant
17 to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award
18 of costs.

19 REQUEST FOR JURY TRIAL

20 Plaintiffs request a trial by jury.

21 PRAYER FOR RELIEF

22 Plaintiffs pray for relief and judgment against Defendants of less than \$75,000 per
23 Plaintiff and less than \$5,000,000 in the aggregate, jointly and severally, as follows:

24 As to the First Cause of Action

25 1. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to
27 pay all overtime wages due to Plaintiffs;
28

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2. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

3. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

4. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a); and

5. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

6. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to pay all business-related expenses owed to Plaintiffs;

7. For unpaid wages and such general and special damages as may be appropriate;

8. For pre-judgment interest on any unpaid wages from the date such amounts were due;

9. For all actual, consequential and incidental losses and damages, according to proof; and

10. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

11. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202 and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiffs no longer employed by Defendants.

12. For all actual, consequential and incidental losses and damages, according to proof;

13. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiffs who have left Defendants' employ;

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1 14. For pre-judgment interest on any unpaid wages from the date such amounts
2 were due; and

3 15. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 **As to the Fourth Cause of Action**

6 16. That the Court declare, adjudge and decree that Defendants violated California
7 Labor Code section 204 by willfully failing to pay all compensation owed at the time required
8 by California Labor Code section 204, to Plaintiffs;

9 17. For all actual, consequential and incidental losses and damages, according to
10 proof;

11 18. For pre-judgment interest on any untimely paid compensation, from the date
12 such amounts were due; and

13 19. For such other and further relief as the Court may deem equitable and
14 appropriate.

15 **As to the Fifth Cause of Action**

16 20. That the Court declare, adjudge and decree that Defendants violated the record-
17 keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders
18 as to Plaintiffs, and willfully failed to provide accurate itemized wage statements thereto;

19 21. For all actual, consequential and incidental losses and damages, according to
20 proof;

21 22. For statutory penalties pursuant to California Labor Code section 226(e);

22 23. For injunctive relief to ensure compliance with this section, pursuant to
23 California Labor Code section 226(g); and

24 24. For such other and further relief as the Court may deem equitable and
25 appropriate.

26 **As to the Sixth Cause of Action**

27 25. That the Court declare, adjudge and decree that Defendants violated California
28

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1 Business and Professions Code sections 17200, et seq. by failing to provide Plaintiffs all
2 overtime compensation due to them, failing to provide all meal and rest periods to Plaintiffs,
3 failing to pay for all missed meal and rest periods to Plaintiffs, failing to reimburse Plaintiffs
4 for all business-related expenses, failing to pay at least minimum wages to Plaintiffs, and
5 failing to pay Plaintiffs' wages timely as required by California Labor Code sections 201, 202
6 and 204;

7 26. For restitution of unpaid wages to Plaintiffs and prejudgment interest from the
8 day such amounts were due and payable;

9 27. For the appointment of a receiver to receive, manage and distribute any and all
10 funds disgorged from Defendants and determined to have been wrongfully acquired by
11 Defendants as a result of violations of California Business & Professions Code sections 17200
12 et seq.;

13 28. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
14 California Code of Civil Procedure section 1021.5;

15 29. For injunctive relief to ensure compliance with this section, pursuant to
16 California Business & Professions Code sections 17200, et seq.; and

17 30. For such other and further relief as the Court may deem equitable and
18 appropriate.

19 Dated: July 6, 2010

Respectfully submitted,

Initiative Legal Group APC

21 By: Liana Beneli

Mónica Balderrama

David Cheng

Liana Beneli

Attorneys for All Plaintiffs

COPY

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF ALAMEDA

10

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28 BETPAROO, MELISSA LYNN WATERS

Case No.: RG10522400

ASSIGNED FOR ALL PURPOSES TO:
Hon. Patrick J. Zika

**PROOF OF SERVICE OF SUMMONS
AND COMPLAINT ON WELLS FARGO
BANK, N.A.**

Place: George E. McDonald Hall of Justice,
2nd floor, Department 302

PROOF OF SERVICE OF SUMMONS AND COMPLAINT ON WELLS FARGO BANK, N.A.

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20 CHRISTINA MICHELLE MUNGUIA, JULIE
21 SOLANO, LIA NICHELLE MCGINNIS,
22 SOFIA SANDOVAL, CAROL M. SASANO,
23 RICHELLE J. YANES, BERNARD ISRAEL,
24 and ASHLEY COTTA, all individuals,

25
26
27
28
Plaintiffs,

vs.

WELLS FARGO BANK, N.A., a Delaware
corporation; and DOES 1 through 10, inclusive,

Defendants.

INITIATIVE LEGAL GROUP APC
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1 TO THE HONORABLE COURT:

2 Defendant Wells Fargo Bank, N.A. was personally served with the Summons, Initial
3 Complaint, Summons on First Amended Complaint, First Amended Complaint and
4 accompanying documents on July 8, 2010 by effectuating service on its agent for service of
5 process.

6 Attached as Exhibit A is a true and correct copy of the Proof of Service on Defendant
7 Wells Fargo Bank, N.A.

8
9 Dated: July 14, 2010

Respectfully submitted,

Initiative Legal Group APC

10
11
12 By: Liana Beneli

Monica Balderrama

David Cheng

Liana Beneli

Attorneys for All Plaintiffs

EXHIBIT A.

Attorney or Party without Attorney: INITIATIVE LEGAL GROUP 1800 CENTURY PARK EAST 2ND FLOOR LOS ANGELES, CA 90067 Telephone No: 310-556-5637 FAX No: 310-861-9051			For Court Use Only		
Attorney for: Plaintiff					Ref. No. or File No.:
Insert name of Court, and Judicial District and Branch Court: ALAMEDA COUNTY SUPERIOR COURT - OAKLAND					
Plaintiff: IRASEMA E. GREENE, et al. Defendant: WELLS FARGO BANK, N.A.					
PROOF OF SERVICE SUMMONS & COMPLAINT		Hearing Date:	Time:	Dept/Div:	Case Number: RG10522400

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of the SUMMONS & COMPLAINT; CIVIL CASE COVER SHEET; NOTICE OF CASE MANAGEMENT CONFERENCE AND ORDER; NOTICE OF ASSIGNMENT OF JUDGE FOR ALL PURPOSES; FIRST AMENDED COMPLAINT; SUMMONS ON 1ST AMENDED COMPLAINT

3. a. Party served: WELLS FARGO BANK, N.A., A DELAWARE CORPORATION
 b. Person served: BECKY DEGEORGE, AGENT FOR SERVICE OF PROCESS

4. Address where the party was served: CSC LAWYERS INCORPORATED
 2730 GATEWAY OAKS DRIVE
 SUITE 100
 SACRAMENTO, CA 95833

5. I served the party:
 a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on: Thu., Jul. 08, 2010 (2) at: 1:20PM

6. The "Notice to the Person Served" (on the Summons) was completed as follows:
 on behalf of: WELLS FARGO BANK, N.A., A DELAWARE CORPORATION
 Under CCP 416.10 (corporation)

7. Person Who Served Papers:
 a. JENICE ROSSNER
 b. PROLEGAL
 1706 S. FIGUEROA ST.
 LOS ANGELES, CA 90015
 c. 213-481-8100

Recoverable Cost Per CCP 1033.5(a)(4)(B)

d. The Fee for Service was:

e. I am: (3) registered California process server
 (i) Independent Contractor
 (ii) Registration No.: 98-02
 (iii) County: Sacramento

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Fri, Jul. 09, 2010

Judicial Council Form POS-010
 Rule 2.150.(a)&(b) Rev January 1, 2007

PROOF OF SERVICE
 SUMMONS & COMPLAINT

Jenice Rossner
 (JENICE ROSSNER)

3671051.1.mile.39176

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles. I declare that I am over the age of eighteen (18) and not a party to this action. My business address is: Initiative Legal Group APC, 1800 Century Park East, Second Floor, Los Angeles, California 90067.

On July 14, 2010, I served the within document(s) described below as:

PROOF OF SERVICE OF SUMMONS AND COMPLAINT ON WELLS FARGO BANK, N.A.

on the interested parties in this action by placing true copies thereon enclosed in sealed envelopes addressed as follows:

Lindbergh Porter, Jr.
 Littler Mendelson, P.C.
 650 California Street, 20th Floor
 San Francisco, California 94108-2693

- (X) **MAIL:** I deposited such envelope in the mail at Los Angeles, California. The envelopes were mailed with postage thereon fully prepaid.
- () **PERSONAL:** I caused such envelope to be delivered by hand to the individuals at the address listed above.
- () **OVERNIGHT COURIER:** I caused the above-referenced document(s) to be delivered via overnight courier service (FedEx) to the individuals at the address listed above.
- () **FACSIMILE:** I caused the above-referenced document(s) to be transmitted to the above-named person at the telephone numbers above.
- (X) **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EXECUTED this document on July 14, 2010, at Los Angeles, California.


 Sandra Petkov

INITIATIVE LEGAL GROUP APC
 1800 CENTURY PARK EAST, SECOND FLOOR, LOS ANGELES, CALIFORNIA 90067

PROOF OF SERVICE